

Office of the Independent Police Auditor

Monthly Report

June 27, 2011 – October 31, 2011¹



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

November 14, 2011

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (A), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the Citizen Review Board. This report provides information for the period June 27, 2011 through October 31, 2011. It is the intention of the OIPA to make this report and all subsequent reports in this series available at www.bart.gov/policeauditor.^{2,3}

Quantitative Report

	Number of Cases Filed ⁴	Number of Open Cases ⁵	Number of OIPA Investigations Concluded	Number of Cases Appealed to OIPA ⁶	Number of Cases Appealed by CRB ⁷
June 27, 2011 - October 31, 2011	27	20	0	0	0

Types of Cases Filed

Citizen Complaints	17
Comments of Non-Complaint	10
TOTAL	27

Citizen Complaints Received per Department

OIPA	3
BART Police Department	14
TOTAL	17

Dispositions/Actions Taken/Recommendations for Corrective Action/# of Days Elapsed⁸

From June 27, 2011 through October 31, 2011, 3 Citizen Complaints were received by the OIPA:

Complaint #	Nature of Complaint	Action Taken	# of Days Elapsed Since Complaint Filed
1		Complaint was referred to the BART Police Department.	124
2		Complaint was referred to the President of the BART Board of Directors and the BART General Counsel.	69
3		Complaint was referred to the BART Police Department.	59

From June 27, 2011 through October 31, 2011, 14 Citizen Complaints were received by the BART Police Department:

Complaint #	Nature of Complaint	Action Taken	# of Days Elapsed Since Complaint Filed
1		The investigation is pending.	89
2		The investigation is pending.	82
3		The investigation is pending.	77
4		The investigation is pending.	72
5		The investigation is pending.	62
6		The investigation is pending.	56
7		The investigation is pending.	49
8		The investigation is pending.	49
9		The investigation is pending.	46
10		The investigation is pending.	43
11		The investigation is pending.	41
12		The investigation is pending.	33
13		The investigation is pending.	17
14		The investigation is pending.	14

From June 27, 2011 through October 31, 2011, 10 Comments of Non-Complaint were received by the BART Police Department:

Complaint #	Nature of Comment	Action Taken	# of Days Elapsed Since Complaint Filed
1	Officer indicated, without cause, that a citation might be issued for failing to yield seat to elderly/disabled.	Supervisor addressed comment with involved officer.	135
2	Officer acted in intimidating manner for no reason.	Supervisor addressed comment with involved officer.	119
3	Community Service Officer abused authority by threatening to have citation issued for placing flyers on cars.	Supervisor addressed comment with involved officer.	110
4	Officer did not sufficiently follow up on report of gambling activity on a train.	Supervisor addressed comment with involved officer.	105
5		The response is pending.	84
6		The response is pending.	69
7		The response is pending.	52
8	Officer was rude during a contact for suspected fare evasion.	Supervisor addressed comment with involved officer.	52
9		The response is pending.	32
10		The response is pending.	17

¹ This is the first in a series of reports to be produced by the Office of the Independent Police Auditor, in accordance with the Citizen Oversight Model. Therefore, the data in this report covers the period from the employment start date of the current Independent Police Auditor through the month of October. Future reports in this series will include data covering the period specified in the Citizen Oversight Model.

² In some instances, this report requires combining data from the OIPA with data from the BART Police Department's Internal Affairs unit. As updates are made to the respective data of each entity, the possibility exists that future revisions to the combined data being reported here will be required.

³ In addition to reporting on complaints received by the BART Police Department, the Citizen Oversight Model requires reporting on all complaints received by the "Citizen Board, Office of the District Secretary, and other District departments." As complaints received by the Citizen Board are customarily directed to the OIPA for

further action, such complaints are included in the Quantitative Report above; the OIPA is not aware of additional complaints received by the Office of the District Secretary or other District departments.

⁴ This number includes all Citizen Complaints filed against members of the BART Police Department. It also includes what the BART Police Department manual defines as “Comments of Non-Complaint”; these are comments “on the actions of a department employee, where the reporting party expressly states that they do not want to make a complaint.” (BART Police Department Policy Manual, Policy 1020.1.1). This number does not include Administrative Complaints brought internally by BART Police Department members; the OIPA is presently working with the BART Police Department to obtain access to that data for inclusion in future reports.

⁵ This number considers the universe of all complaints initiated within the reporting period (June 27, 2011 – October 31, 2011) and includes all on-going investigations in that universe being conducted by the OIPA or the BART Police Department as of the end of the period.

⁶ This number refers to appeals filed with OIPA by complainants who have been issued the findings of the BART Police Department’s internal investigation into their complaint regarding on-duty incidents. The OIPA has a responsibility to review such appeals pursuant to the BART Citizen Oversight Model, Chapter 1-04 (E).

⁷ This number refers to all appeals initiated by the Citizen Review Board after receiving and reviewing the findings issued by the OIPA in a given case. The routes of all such appeals are described in detail in the BART Citizen Oversight Model, Chapter 1-04 (B) (iv-v).

⁸ All items in this section that have been closed include a brief description of the underlying concern giving rise to the Citizen Complaint and/or Comment of Non-Complaint. For all items that are not yet closed, such a description has been omitted to protect the integrity of an ongoing investigation.